

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

At the outset, Applicants and Applicants' representative sincerely thank Examiner Henson of the U.S. Patent and Trademark Office for her time and consideration in participating in an interview with Applicants' representative on April 10, 2012. The Interview Summary provided by the Examiner at the conclusion of the interview accurately reflects the substance of the interview.

At the conclusion of the interview, the Examiner advised that submitting written arguments articulating points raised during the interview, and amending claim 11 to recite the segregation status feature, should be sufficient to overcome each rejection based on International Publication No. WO 97/16713. By the present paper, Applicants reiterate arguments made during the interview, and implement the amendment to claim 11 proposed during the interview.

By the present amendment, claim 1 has been amended to explicitly recite that the repeated determination of momentary transmission values $I_T(t, r)$, and optionally scattering values $I_S(t, r)$, is conducted with the measurement device. Claim 11 has been amended to recite that the radiation intensity measurements characterize a current segregation status of the sample. Support for such amendment can be found in the instant specification at least at page 6, paragraph [0019], and original claim 1. In addition, claims 1, 3, 11, 17, 29 and 34 have been amended for readability and/or clarification purposes.

In the Official Action, claims 1-10, 17, 21-25 and 28 stand rejected under 35 U.S.C. §101. This rejection is moot in view of the above amendments, in which claim 1 has been amended to explicitly recite that the repeated determination of momentary transmission values $I_T(t, r)$, and optionally scattering values $I_S(t, r)$, is conducted with the measurement device. Accordingly, for at least the above reasons, withdrawal of the §101 rejection is respectfully requested.

Claims 11, 14, 29 and 30 stand rejected under 35 U.S.C. §102(b) as being anticipated by International Publication No. WO 97/16713 (WO '713). The Patent Office has relied on a machine translation of the corresponding DE publication. Claim 12 stands rejected under 35 U.S.C. §103(a) as being obvious over WO '713, in view of allegedly admitted prior art and U.S. Patent No. 3,932,131 (*Rolfo-Fontana*). Claim 13 stands rejected under 35 U.S.C. §103(a) as being obvious over WO '713, in view of U.S. Patent No. 5,638,172 (*Alsmeyer et al*). Claims 15 and 16 stand rejected under 35 U.S.C. §103(a) as being obvious over WO '713, in view of U.S. Patent No. 5,095,451 (*Allen*). Claims 1-9, 17, 19-26 and 28 stand rejected under 35 U.S.C. §103(a) as being obvious over WO '713, in view of U.S. Patent No. 3,997,845 (*Wegstedt*). Claim 26 stands rejected under 35 U.S.C. §103(a) as being obvious over WO '713 and *Wegstedt*, and further in view of U.S. Patent Application Publication No. 2005/0025819 (*Onyuksel et al*). Withdrawal of the above rejections is respectfully requested for at least the following reasons.

As discussed during the interview, WO '713 does not disclose or suggest each feature recited in independent claims 1, 11 (as amended), and 29. For example, WO '713 does not disclose or suggest repeatedly determining and recording momentary transmission values $I_T(t, r)$, and optionally scattering values

$I_s(t, r)$, characterizing a current **segregation status** of the sample using waves radiated with intensity values $I_o(t, r)$ as a function of a position r within the sample at a time t , for one or more wavelengths over at least a partial section of the sample, simultaneously for multiple positions r , as recited in claim 1. In addition, WO '713 does not disclose or suggest a spectrometric measurement device which measures radiation intensity scattered or transmitted by a dispersion sample over a partial or entire length of the sample, simultaneously for multiple positions of the sample, and provides a radiation intensity measurement for each of the multiple positions at which a measurement is taken, wherein the radiation intensity measurements characterize a **segregation status** of the sample, as recited in claim 11. Further, WO '713 does not disclose or suggest detecting transmission values $I_T(t, r)$ and/or scattering values $I_s(t, r)$ of the sample, simultaneously for multiple positions r , characterizing a **segregation status** of the sample from the transmission values $I_T(t, r)$ and/or scattering values $I_s(t, r)$, as recited in claim 29.

For example, as discussed during the interview, the recited segregation status of the sample refers to the status of the particles separating and/or migrating based on their particular properties, in relation to one another. The recited values or measurements which characterize a segregation status of the sample, relate to the status of the separation and/or migration of the sample particles in relation to one another. By comparison, in the system shown in Figure 1 of WO '713, light is not transmitted through the portion of the sample containing sediment. The transmission data for the portion of the sample containing sediment is constant. WO '713 is concerned with measuring the sediment/plasma interface, i.e., the interface between the dark and light portions of the sample in Figure 1. WO '713 is not concerned at all

with the segregation status of the sample. There is simply no disclosure or suggestion of the features of claims 1, 11 and 29 discussed above.

The present rejections are untenable in view of the above-described deficiencies of WO '713. The secondary applied documents fail to cure the above-described deficiencies of WO '713. Accordingly, for at least the above reasons, withdrawal of the above rejections is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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